

*Release* *Datz*

UNITED STATES GOVERNMENT  
National Labor Relations Board

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Memorandum

TO : Roger W. Goubeaux, Director  
Region 31

DATE: July 16, 1981

FROM : Harold J. Datz, Associate General Counsel  
Division of Advice

05068

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SUBJECT: Blue Shield of California  
Case 31-CA-10964

This matter was submitted for advice on the issue of whether the Employer violated Section 8(a)(1) of the Act by promulgating a no-solicitation, no-distribution rule, exempting certain charitable activities.

It was concluded that the charge should be dismissed, absent withdrawal. Although the no-solicitation, no-distribution rule in the instant case 1/ exempts annual United Way and Blood Bank drives, it was concluded that such exemption does not render the rule invalid on its face. Thus, the Board has long held that an employer's limited allowances of worktime for charitable solicitations "falls short of establishing forbidden discrimination." 2/ The limited exception reserved in the Employer's rule was regarded as falling within this minimal level of solicitation which may be permitted without prompting a conclusion that the rule was discriminatorily intended to prohibit union solicitation. It was concluded that the fact that in this case, unlike in the above-cited cases, this exception was written into the rule does not warrant a contrary conclusion. Indeed, it could be argued that placing these minimal exceptions in writing could serve to make clear to the employees that only these exceptions are allowed, thus avoiding the creation of an impression of selective enforcement.

1/ The rule reads:

Solicitation

Solicitation of any type by employees during work time is prohibited.

Distribution of literature of any type or description by employees during work time is prohibited.

Distribution of literature of any type or description in working areas is prohibited.

Violation of any of the above rules will result in immediate disciplinary action, including termination.

Exceptions to this policy are the company-approved annual fund raising drives for United Way and Blood Bank Drives.

Blue Shield of California

Employees who have distributed both "pro" and "anti" union literature in violation of this rule have been disciplined.

2/ On next page.

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan



It was also noted that the Employer's practice of allowing annual United Way and Blood Bank drives is consistent with its health care financing functions and responsibilities, and therefore arguably privileged under Rochester General Hospital, 234 NLRB 253 (1978). Clearly, the ready availability of adequate blood supplies impacts on the timeliness and effectiveness of health care and therefore on the cost of such health care, which is of direct concern to the Employer. Similarly, the United Way distributes donations to numerous health organizations many of which conduct research as to the causes, cures, and prevention of disease. Thus, the Employer's support of such organizations through its encouragement of donations to the United Way relates indirectly to its business functions. Accordingly, under Rochester General Hospital, supra, also; the Employer's written exceptions to its no-distribution rule do not indicate a discriminatory purpose.

H.J.D.

2/ Serv-Air, Inc., 175 NLRB 801 (1969); Sequoyah Spinning Mills, 194 NLRB 1175 (1972); Montgomery Ward & Co., 227 NLRB 1170 (1977); Astronautics Corp. of America, 164 NLRB 623 (1967).